
By: **Senators Brinkley, Astle, Colburn, Dyson, Hafer, Haines, Harris, Hogan,
Jacobs, Lawlah, Mooney, Ruben, and Stone**

Introduced and read first time: February 5, 2004

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Qualified Tuition Programs - Income Tax Treatment**

3 FOR the purpose of altering a certain addition modification under the Maryland
4 income tax for certain distributions from certain qualified tuition programs;
5 altering certain subtraction modifications under the Maryland income tax for
6 certain contributions to certain qualified tuition programs; repealing a certain
7 Maryland income tax subtraction modification made obsolete as a result of
8 certain changes to the federal income tax treatment of qualified tuition
9 programs; providing for the application of this Act; and generally relating to the
10 income tax treatment of contributions to and distributions from certain
11 qualified tuition programs.

12 BY repealing and reenacting, with amendments,
13 Article - Tax - General
14 Section 10-205(h) and 10-208(n) and (o)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2003 Supplement)

17 BY repealing
18 Article - Tax - General
19 Section 10-207(s)
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Tax - General**

25 10-205.

26 (h) (1) (i) In this subsection [the following words have the meanings
27 indicated.

1 (ii) "Contributor" and "qualified designated beneficiary" have the
2 meanings stated in § 18-19A-01 of the Education Article.

3 (iii) "Purchaser" and "qualified beneficiary" have the meanings
4 stated in § 18-1901 of the Education Article.

5 (iv) "Qualified higher education expenses" has the meaning stated
6 in § 529 of the Internal Revenue Code., "QUALIFIED TUITION PROGRAM" HAS THE
7 MEANING STATED IN § 529 OF THE INTERNAL REVENUE CODE.

8 (2) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
9 addition under subsection (a) of this section includes the amount of[:

10 (i) any refund received in the taxable year by a purchaser under a
11 prepaid contract in accordance with the Maryland Prepaid College Trust or a
12 contributor under an investment account in accordance with the Maryland College
13 Investment Plan; or

14 (ii) any distribution received in the taxable year by a purchaser
15 under a prepaid contract in accordance with the Maryland Prepaid College Trust or a
16 contributor under an investment account in accordance with the Maryland College
17 Investment Plan that is not used on behalf of the qualified beneficiary or qualified
18 designated beneficiary for qualified higher education expenses] ANY DISTRIBUTION
19 FROM A QUALIFIED TUITION PLAN OTHER THAN:

20 (I) A DISTRIBUTION FOR QUALIFIED HIGHER EDUCATION
21 EXPENSES WITHIN THE MEANING OF § 529(C)(3)(B) OF THE INTERNAL REVENUE
22 CODE; OR

23 (II) A DISTRIBUTION THAT IS A ROLLOVER OR CHANGE IN
24 DESIGNATED BENEFICIARIES WITHIN THE MEANING OF § 529(C)(3)(C) OF THE
25 INTERNAL REVENUE CODE.

26 (3) The amount of the addition required under this subsection shall be
27 reduced by any amount included in the individual's federal adjusted gross income as
28 a result of the [refund] DISTRIBUTION.

29 (4) The cumulative amount of the addition under this subsection for the
30 taxable year and all prior taxable years may not exceed THE SUM OF:

31 (I) the cumulative amount allowed as a subtraction[:

32 (i)] under § 10-208(n) of this subtitle for the taxable year and all
33 prior taxable years for [the purchaser's payments to the prepaid contract under
34 which the refund or distribution is received; or] CONTRIBUTIONS TO A QUALIFIED
35 PREPAID TUITION PROGRAM; AND

36 (ii) THE CUMULATIVE AMOUNT ALLOWED AS A SUBTRACTION
37 under § 10-208(o) of this subtitle for the taxable year and all prior taxable years for
38 [contributions made by a contributor to an investment account under which the

1 refund or distribution is received] CONTRIBUTIONS TO A QUALIFIED HIGHER
2 EDUCATION INVESTMENT PROGRAM.

3 10-207.

4 [(s) (1) (i) In this subsection the following words have the meanings
5 indicated.

6 (ii) "Qualified beneficiary" has the meaning stated in § 18-1901 of
7 the Education Article.

8 (iii) "Qualified designated beneficiary" has the meaning stated in §
9 18-19A-01 of the Education Article.

10 (iv) "Qualified higher education expenses" has the meaning stated
11 in § 529 of the Internal Revenue Code.

12 (2) Except as provided in paragraph (3) of this subsection, the
13 subtraction under subsection (a) of this section includes any amount included in
14 federal adjusted gross income as a result of a distribution to:

15 (i) a qualified beneficiary pursuant to a prepaid contract under the
16 Maryland Prepaid College Trust; or

17 (ii) a qualified designated beneficiary from an investment account
18 under the Maryland College Investment Plan.

19 (3) The subtraction under paragraph (2) of this subsection does not apply
20 to:

21 (i) a refund under the Maryland Prepaid College Trust or the
22 Maryland College Investment Plan; or

23 (ii) a distribution that is not used by the qualified beneficiary or
24 qualified designated beneficiary for qualified higher education expenses.]

25 10-208.

26 (n) (1) (i) In this subsection the following words have the meanings
27 indicated.

28 (ii) ["Purchaser" has the meaning stated in § 18-1901 of the
29 Education Article] "CONTRIBUTOR" MEANS A CONTRIBUTOR WITHIN THE MEANING
30 OF § 529 OF THE INTERNAL REVENUE CODE.

31 (iii) "DESIGNATED BENEFICIARY" HAS THE MEANING STATED IN §
32 529 OF THE INTERNAL REVENUE CODE.

33 (IV) "Qualified higher education expenses" has the meaning stated
34 in § 529 of the Internal Revenue Code.

1 (V) "QUALIFIED PREPAID TUITION PROGRAM" MEANS A QUALIFIED
2 TUITION PROGRAM UNDER WHICH AN INDIVIDUAL MAY PURCHASE TUITION
3 CREDITS OR CERTIFICATES ON BEHALF OF A DESIGNATED BENEFICIARY WHICH
4 ENTITLE THE BENEFICIARY TO THE WAIVER OF PAYMENT OF QUALIFIED HIGHER
5 EDUCATION EXPENSES OF THE DESIGNATED BENEFICIARY.

6 (VI) "QUALIFIED TUITION PROGRAM" HAS THE MEANING STATED IN
7 § 529 OF THE INTERNAL REVENUE CODE.

8 (2) (I) The subtraction under subsection (a) of this section includes the
9 amount of [advance payments of qualified higher education expenses made by a
10 purchaser during the taxable year as provided under a prepaid contract in accordance
11 with the Maryland Prepaid College Trust] CONTRIBUTIONS MADE BY A
12 CONTRIBUTOR TO A QUALIFIED PREPAID TUITION PROGRAM ON BEHALF OF A
13 DESIGNATED BENEFICIARY.

14 (II) THE SUBTRACTION UNDER THIS SUBSECTION DOES NOT
15 INCLUDE ANY AMOUNT THAT IS A TAX-FREE ROLLOVER OR CHANGE IN DESIGNATED
16 BENEFICIARIES UNDER § 529(C)(3)(C) OF THE INTERNAL REVENUE CODE.

17 (3) (I) Subject to paragraph (4) of this subsection, for each [prepaid
18 contract] CONTRIBUTOR FOR EACH DESIGNATED BENEFICIARY, the subtraction
19 under paragraph (2) of this subsection may not exceed \$2,500 for any taxable year.

20 (II) FOR PURPOSES OF THE TAX LIMITATION UNDER THIS
21 PARAGRAPH, EACH SPOUSE ON A JOINT INCOME TAX RETURN SHALL BE TREATED
22 SEPARATELY.

23 (4) The amount disallowed as a subtraction under this subsection for any
24 taxable year as a result of the limitation under paragraph (3) of this subsection shall
25 be treated as having been made in the next succeeding taxable year and, subject to
26 the \$2,500 annual limitation [for each prepaid contract], may be carried over to
27 succeeding taxable years until the full amount of the [advance payments]
28 CONTRIBUTIONS has been allowed as a subtraction.

29 (o) (1) (I) In this subsection[, "investment account", "qualified designated
30 beneficiary", "contributor", and "qualified higher education expenses" have the
31 meanings stated in § 18-19A-01 of the Education Article] THE FOLLOWING WORDS
32 HAVE THE MEANINGS INDICATED.

33 (II) "CONTRIBUTOR" MEANS A CONTRIBUTOR WITHIN THE
34 MEANING OF § 529 OF THE INTERNAL REVENUE CODE.

35 (III) "DESIGNATED BENEFICIARY" HAS THE MEANING STATED IN §
36 529 OF THE INTERNAL REVENUE CODE.

37 (IV) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE
38 MEANING STATED IN § 529 OF THE INTERNAL REVENUE CODE.

1 (V) "QUALIFIED HIGHER EDUCATION INVESTMENT PROGRAM"
2 MEANS A QUALIFIED TUITION PROGRAM UNDER WHICH AN INDIVIDUAL MAY MAKE
3 CONTRIBUTIONS TO AN ACCOUNT WHICH IS ESTABLISHED FOR THE PURPOSE OF
4 MEETING THE QUALIFIED HIGHER EDUCATION EXPENSES OF THE DESIGNATED
5 BENEFICIARY OF THE ACCOUNT.

6 (VI) "QUALIFIED TUITION PROGRAM" HAS THE MEANING STATED IN
7 § 529 OF THE INTERNAL REVENUE CODE.

8 (2) (I) The subtraction under subsection (a) of this section includes the
9 amount [contributed by a contributor during the taxable year to an investment
10 account] OF CONTRIBUTIONS MADE BY A CONTRIBUTOR TO A QUALIFIED HIGHER
11 EDUCATION INVESTMENT PROGRAM ON BEHALF OF A DESIGNATED BENEFICIARY.

12 (II) THE SUBTRACTION UNDER THIS SUBSECTION DOES NOT
13 INCLUDE ANY AMOUNT THAT IS A TAX-FREE ROLLOVER OR CHANGE IN DESIGNATED
14 BENEFICIARIES UNDER § 529(C)(3)(C) OF THE INTERNAL REVENUE CODE.

15 (3) (I) Subject to paragraph (4) of this subsection, for each
16 [investment account] CONTRIBUTOR FOR EACH DESIGNATED BENEFICIARY, the
17 subtraction under paragraph (2) of this subsection may not exceed \$2,500 for any
18 taxable year.

19 (II) FOR PURPOSES OF THE TAX LIMITATION UNDER THIS
20 PARAGRAPH, EACH SPOUSE ON A JOINT INCOME TAX RETURN SHALL BE TREATED
21 SEPARATELY.

22 (4) The amount disallowed as a subtraction under this subsection for any
23 taxable year as a result of the limitation under paragraph (3) of this subsection shall
24 be treated as having been contributed in the next 10 succeeding taxable years and,
25 subject to the \$2,500 annual limitation [for each investment account], may be carried
26 over to succeeding taxable years as a subtraction.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2004 and shall be applicable to all taxable years beginning after December 31,
29 2003.